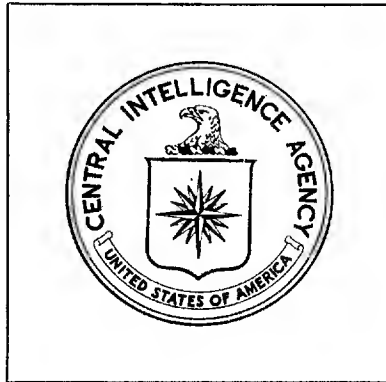


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Law of the Sea Country Study

Sri Lanka

Secret

BGI LOS 74-2
March 1974

NATIONAL SECURITY INFORMATION
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FOREWORD

The Law of the Sea Country Studies are prepared to support the NSC Interagency Task Force on the Law of the Sea. The countries to be included in the series are selected on the basis of priorities suggested by the Chairman of the Task Force.

Each study includes as Part I an analysis of the primary geographic, economic, and political factors that might influence the country's law of the sea policy, the public and private expressions of that policy, [REDACTED]

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Part II provides basic data bearing on law of the sea matters.

This study was prepared by the Office of Basic and Geographic Intelligence. [REDACTED]

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The study was coordinated within the Directorate of Intelligence and with the Department of State. Comments and questions may be directed to the LOS Country Studies Working Group, Code 143, Extension 2257.

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Kenya, and Sri Lanka, 16 July 1973

Maps : Middle East - South Asia Regional Map
Theoretical Division of the World Seabed

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Part I - Law of the Sea Policies

A. SUMMARY

Sri Lanka promises to be a significant voice for the developing countries at the 1974 LOS Conference. It has played a key role in the preparations for the conference, and Sri Lanka's permanent representative to the UN has been elected conference president. Members of Sri Lanka's delegation are articulate and well versed in LOS matters.

While basically objective in its approach to LOS problems, Sri Lanka is critical of many past and present maritime practices of the advanced states, and is a strong advocate of the one-state-one-vote concept. Sri Lanka takes the view that if the conference is to succeed the major powers will have to compromise on two key issues: the right of no more than innocent passage through straits falling within territorial seas; and the concept of an exclusive economic zone, but with sufficient modification to allow for the application of certain international rules and standards. An effective and equitable system of settlement of disputes by an independent tribunal is also considered essential.

Additionally, Sri Lanka supports the concept of an international Seabed Authority with extensive powers and responsibility over the widest possible area. If such an Authority were established, offering prospects of providing real benefits to developing countries through the equitable sharing of revenues derived from the exploitation of seabed resources, Sri Lanka has indicated it might support a relatively narrow limit of offshore national jurisdiction.

Aside from its interest in seabed revenue sharing, Sri Lanka is anxious to promote the concept of transfer of marine technology from the advanced nations to underdeveloped countries. In this way, Sri Lanka hopes to improve its vastly underdeveloped fishing industry which is of major economic importance to that nation.

B. FACTORS INFLUENCING LOS POLICY

Special Geographic Features

The island state of Sri Lanka lies some forty miles off the southeastern coast of India, to which it is linked by islands and an 18-mile stretch of shallows and sandbars. Sandy beaches line

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much of the coast. The continental shelf (to the 200 meter isobath) surrounding Sri Lanka is narrow, except in the northwest where it abuts India's shelf. Seaward, the continental margin extends well beyond 200-n. miles except off the south/southeastern coast.

Uses of the Sea

Mineral Resources -- Sri Lanka has no proven mineral resources on its continental shelf; while some exploratory work has been done in recent years, potential seems limited. The island is completely dependent on imports of petroleum and coal supplies.

Living Resources -- Fishing is a major industry, constituting an important source of employment and providing about half of Sri Lanka's consumption of fish -- the island's chief source of animal protein. The industry is primarily coastal in nature and vastly underdeveloped, but with considerable potential. In this regard, Sri Lanka places strong emphasis on the need for transfer of technology from advanced fishing nations. In 1971 it entered into a cooperative fisheries agreement with the USSR, and has expressed its readiness to conclude similar arrangements with other nations. Some offshore fishing and pearling is conducted on banks off the Indian coast; the preservation of such historical fishing rights is of major concern to Sri Lanka in any determination of offshore economic zones at the LOS Conference.

Marine Transportation and Naval Considerations -- Sri Lanka has no significant merchant fleet, and its navy comprises only about thirty coastal patrol vessels.

Sri Lanka has two principal ports, Colombo and Trincomalee, which are of major importance to the economy of the island and play a significant role in international trade. Colombo, especially, is one of the major maritime terminals on the Indian Ocean, providing bunkering and transit cargo services for merchant vessels of many nations.

Political and Other Factors

Adhering to a policy of nonalignment in its foreign relations, Sri Lanka identifies with the developing nations. It is a member of the Asian-African Legal Consultative Committee (AALCC), and has usually lined up with the Asian-African bloc in the UN, especially on issues dealing with colonialism and disarmament. Sri Lanka is a long-time proponent of the concept that the Indian Ocean be recognized by all nations as a Zone of Peace. Its attitude on LOS

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issues is likely to be influenced to a considerable extent by India's policies and practices. It has cooperated with India in the preparation of a draft seabed treaty.

Sri Lanka has played an important role in the preparations for the LOS Conference. It feels strongly that the poorer nations of the world have a unique opportunity to augment their limited resources through internationalized exploitation of the deep seabed resources under the concept of "the common heritage of mankind." Further, it regards the LOS Conference as a chance for comprehensive review -- and, as needed, reform -- of conventional sea policies shaped by colonial powers in the past and by technologically advanced nations of today. However, Sri Lanka seeks resolution of outstanding issues only, not a wholesale revision of matters satisfactorily settled at the 1958 LOS Conference. Sri Lanka participated in that conference and signed, but has not ratified, its four conventions.

C. LAW OF THE SEA POLICY

Territorial Seas

Sri Lanka sees a strong interconnection between a determination of the breadth of the territorial sea and the issue of the offshore economic zone. It is inclined to accept an outer limit of 12-n. miles for the territorial sea provided that the separate question of adequate resource jurisdiction is satisfactorily determined. In 1971, Sri Lanka itself extended its territorial sea to 12-n. miles from a previous 6-mile limit.

Straits

The issue of international passage through straits within territorial seas is viewed by Sri Lanka as perhaps the most difficult problem facing the LOS Conference. Sri Lanka firmly adheres to the concept of innocent passage, but subject to international agreement on objective criteria as to what does or does not constitute innocent passage, and also the establishment of fixed procedures to follow in the event of disputes. If such criteria were established, Sri Lanka believes a compromise could be reached that would offer certain guarantees to international users while safeguarding the interests of the coastal states. Fundamental to any such compromise, however, is the felt need for acknowledgement of the right of coastal states to regulate, and perhaps to restrict, passage through straits within their territorial seas to the same extent that they control international navigation within their territorial seas generally.

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Islands

A representative of Sri Lanka has stated the view that if there is unqualified agreement to invest every piece of land above the surface of the sea with a zone of exclusive resource jurisdiction this would merely insure greater wealth for the administering metropolitan powers and would be tantamount to recognition of the old area of colonialism. He suggested that pending resolution of questions of ownership to certain islands it might be within the power of the international community to withhold recognition of certain rights.

Coastal State Jurisdiction Beyond the Territorial Sea

Sri Lanka supports the right of a coastal state to claim exclusive jurisdiction over an adequate area beyond its territorial sea for the exploration/exploitation and the conservation/management of both living and non-living resources therein. The coastal state should also have the right to exercise jurisdiction over offenders. In 1957, Sri Lanka proclaimed a fish conservation zone 100 miles wide adjacent to its 12-n. mile territorial sea, but has not yet enacted enabling legislation.

To Sri Lanka, the breadth of an exclusive economic zone is negotiable; it apparently favors a maximum limit of 200-n. miles, inclusive of the territorial sea, or a distance measured outward to the 200 meter isobath. Historic rights of neighboring states to fish within the exclusive zone of a coastal state must be safeguarded. In this connection, Sri Lanka has enjoyed historic fishing rights on the Wadge Bank, which area would fall within the projected exclusive economic zone of India.

Sri Lanka's view is that if a coastal state does not have the technological capacity for direct exploitation of the resources within its exclusive economic zone, it may employ contractors, enter into joint ventures with foreign states or entities, or make other bilateral arrangements for exploitation.

It is Sri Lanka's position that the establishment of an exclusive economic zone would be without prejudice to the freedom of navigation, freedom of overflight and freedom to lay submarine cables and pipelines for all states without discrimination.

Fisheries

In its draft articles on fisheries introduced to the UN Seabed Committee in July 1973 (see attachment A), Sri Lanka noted that a

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coastal state has a special interest in the maintenance of the productivity of the living resources of an area of the sea adjacent to an exclusive fishery zone, and may take appropriate measures to protect that interest. The extent of such an area of preferential rights would have to be determined, taking into account the extent of an exclusive fishery zone. The coastal states, regional arrangements, and an international authority all would have a part to play in the systematic management of the living resources in such a preferential zone. Any dispute concerning fishing activities beyond the exclusive fishery zone would be referred to the international Authority projected to be designated at the LOS Conference.

Deep Seabed Authority

Sri Lanka supports the concept of an international Seabed Authority with extensive powers and responsibility over the widest possible area. The powers and responsibility of such an Authority might also apply to some extent within any coastal intermediate zone that might be established. Sri Lanka has not committed itself on the precise criterion for setting the limits of the international zone, but has indicated it would consider a "moderate" fixed distance criterion such as 200-n. miles offshore. Preference is for a distance rather than a depth criterion as well as for the establishment of a uniform measure for all states.

Sri Lanka's position is likely to depend considerably on the nature and powers of the international Authority. If there is a strong Authority which offers prospects of providing real benefits to developing countries, Sri Lanka would be prepared to consider supporting a relatively narrow limit of offshore national jurisdiction. Conversely, if the international machinery does not have comprehensive powers to exploit the wealth of the seabed so as to yield substantial profits to be shared equitably, Sri Lanka can be expected to consider recognizing wider claims to national jurisdiction.

Sri Lanka advocates the establishment of a Seabed Authority in conformity with the basic principles adopted by the General Assembly in 1970. This would be an Authority established by a treaty of a universal character, generally agreed upon and open to all states. In Sri Lanka's view, the Seabed Authority must possess all the powers necessary to insure the ultimate and safe development, and the national management of the international area and its resources, as well as the equitable sharing of benefits. These powers might include the power to:

- a. license all exploration and exploitation in the international area;

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- b. carry out exploration and exploitation through its own resources or by means of contractors;
- c. collect and share all monetary and other benefits accruing to participating states;
- d. redress adverse economic effects caused by the fluctuation of prices of raw materials resulting from deep sea exploitation;
- e. promote scientific and technical training of personnel from developing countries;
- f. take measures for the preservation of the marine environment, including pollution control; and
- g. settle disputes and impose sanctions in the event of non-compliance with obligations.

Sri Lanka does not expect the Seabed Authority to exercise the full range of its functions initially, but feels that the power to exploit the seabed through its own resources should be beyond question. In this respect, a Canadian official conversant with LOS matters stated recently that, within the group of 77, Sri Lanka is "fighting" the Enterprise System since it feels that contractual authority is all that is necessary.

As for the makeup of the Seabed Authority, Sri Lanka proposes a plenary organ of the entire LOS membership; an executive council of limited membership (25-35 members) based on equitable geographical representation and perhaps political alignments and degree of technological advancement; a tribunal for the settlement of disputes; and a secretariat.

Sri Lanka feels strongly that the principle of one-state-one-vote should apply to all decisions, and that there should be no system of weighted voting or veto. Decisions should be by majority vote. In its undertakings the Authority should be guided only by essential scientific, technological, economic, and financial criteria adopted by the plenary organ. Considerations of efficiency, aimed at the greatest financial return for distribution among developing countries should be decisive in operational matters.

As regards the procedure for licensing exploitation, Sri Lanka feels that it should involve either directly or indirectly the state(s) of the nationality of the operator(s). This would guarantee compliance with the terms of the license and fix responsibility for any environmental damages caused by the activities.

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Sri Lanka has suggested the following types of benefit sharing:

- a. funds received as revenues or from sale of raw materials by the Authority;
- b. the raw materials themselves; and
- c. information from scientific research.

Equitable distribution of funds might be based on an inverse scale of contributions to UN expenses or be directly related to the GNP or to per capita income. Sri Lanka rejects such criteria as economic performance or success of a country's economic efforts; funds received should in no way be considered as foreign aid.

Sri Lanka co-sponsored the so-called "moratorium" resolution adopted by the UN General Assembly in 1969 which called for all states and entities to refrain from exploitation of deep seabed resources pending the establishment of an international authority.

Sri Lanka believes that the developing countries must firmly uphold the concept that the deep seabed resources are the common heritage of mankind. However, it takes the pragmatic view that such resources are useless without the technology to exploit them. Therefore, what is needed at the LOS Conference is mutual understanding and respect between the advanced and developing nations that will result in a suitable accommodation of their respective interests.

Marine Pollution

Sri Lanka has indicated its concern with marine pollution and has called for revision of the existing legal framework of pollution control which it feels is inadequate as regards both prevention and responsibility for damages. It believes that there must be recognition of the right of the coastal state to be consulted, and in certain circumstances, to take measures against activities likely to cause damage to the marine environment. Sri Lanka feels that the international seabed authority should, at the least, share responsibility for monitoring marine pollution; the geographical limits and extent of such responsibility have not been spelled out as yet.

Sri Lanka supports the principle of internationally agreed criteria and standards to control pollution, but with provision made for regional and local variations in the effects of pollution. While recognizing the universal impact of marine pollution, Sri Lanka views the problem as largely caused by the excesses of

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advanced nations. It feels that all nations must help in the battle against pollution, but that the "social cost" should be borne proportionally more heavily by those nations principally responsible for the sea's degradation. In any event, the collective effort against pollution should not become any unwitting instrument to slow down the growth of developing countries.

Aside from making such general observations, Sri Lanka had commented on draft articles on pollution control that have been introduced to date, but has reserved its final position pending definitive action taken at the LOS Conference. It feels that the complex problem of pollution must be approached cautiously and that the issues involved require substantial clarification before an acceptable text can be produced. It agrees that existing competent organs, such as the Intergovernmental Marine Consultative Organization (IMCO), have a role to play in this effort.

Scientific Research

Basically, Sri Lanka feels that all research should be subject to certain rules to safeguard the security of coastal states, to prevent pollution, etc. Moreover, while admitting that it is sometimes difficult to distinguish between "scientific" and "industrial" research, Sri Lanka feels that the LOS Conference should try to make distinctions with a view to imposing restrictions on industrial research, i.e., "prospecting." Sri Lanka also feels that provision should be made at the conference for the rapid transfer to the developing countries of marine technology and scientific data resulting from marine research.

More specifically, Sri Lanka takes the stand that scientific research carried out within the national jurisdiction of a coastal state must be subject to whatever reasonable conditions the coastal state wishes to impose. In this connection, Sri Lanka supports the concept of national jurisdiction for scientific research in an area up to 200-n. miles offshore, akin to the proposed exclusive economic zone. Such reasonable conditions that the coastal state might impose could include its prior consent, the right of participation or the right to be informed of the research results, the right to terminate or interrupt the research for good cause, and overall, the right to secure compliance with its own laws and regulations. Coastal states would be under corresponding obligation not to subject the research activities to needless interference or disruption.

In Sri Lanka's view, scientific research on the high seas would be free in the sense that the scope of the research program would remain within the discretion of the state concerned provided it had no warlike, destructive or dangerous purpose. On the other hand, the

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interests of the international community would have to be protected through the application of certain basic rules, such as notification to the international Authority. Sri Lanka has suggested that such notification of scientific research in a particular area, accompanied by an outline of the research program and a commitment to publish the results within a reasonable time, could be accepted as proof of motive.

Peaceful Uses of the Sea

Sri Lanka proposed at the 26th UN General Assembly that all states would be called upon to consider the Indian Ocean as a Zone of Peace. A resolution to that effect was passed, but with substantial opposition on the part of the major powers and widespread lack of enthusiasm among many others. All military bases, installations, fortifications, logistical supply facilities, weapons testing, maneuvers, and the use, deployment, installation or storage of weapons and weapon-like devices would be excluded from this zone. Vessels of all nations would have the right to traverse the zone subject to such special regimes as may be prescribed by the coastal states in areas within their jurisdiction. Warships would have the right of transit, but would not be able to put into port for other than emergency reasons of mechanical, technical, or humanitarian character.

D. KEY POLICY MAKERS AND LOS NEGOTIATORS

Sri Lanka has a parliamentary form of government with effective political power concentrated in the hands of the Prime Minister and the cabinet. The Minister of Fisheries, Mr. G. Rajapakse, is vitally concerned with LOS matters because of the importance of the fishing industry to Sri Lanka's economy.

Sri Lanka has played an active role in the preparations for the LOS Conference. Its permanent representative to the UN, Mr. H. S. Amerasinghe, was chairman of the Seabed Committee and has been elected president of the 1974 LOS Conference. He and other representatives of Sri Lanka, notably Mr. C. W. Pinto of the Foreign Ministry, are articulate and well versed in LOS issues.

Sri Lanka's representatives at the preparatory sessions for the Third UN Conference on LOS or the organizational session of the Conference are as follows:

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	Seabed Committee Session						Org. Conf. Dec 73
	Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	
*H.E. Mr. H. S. AMERASINGHE Ambassador Extraordinary and Plenipotentiary Permanent Representative to the UN	X	X	X	X	X	X	X
Mr. A. PATHMARAJAH Permanent Representative to the UN	X			X			
*Mr. C. W. PINTO Legal Adviser Ministry of Foreign Affairs	X	X	X	X	X	X	X
Mr. J. C. RAJAPAKSE First Secretary Belgrade						X	
Mr. D. S. de SILVA Third Secretary Permanent Mission to the UN			X		X		
Mr. R. C. A. VANDERGERT First Secretary Permanent Mission to the UN							X
H.E. Mr. Y. YOGASUNDRAM Ambassador Deputy Permanent Representative to the UN			X		X		

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Part II - Basic Information

BASIC DATA

GEOGRAPHIC DATA:

World region: South Asia
Country category: Island
Bordering bodies of water: Bay of Bengal,
Indian Ocean, Laccadive Sea, Gulf of
Mannar, Palk Bay
Bordering semi-enclosed sea: Laccadive Sea
Bordering straits: Palk Strait
Area of continental shelf: 7,800 sq. n. mi., shared with India
Area to 200-n. mi. limit: 150,900 sq. n. mi., shared with India
Area to edge of continental margin: 26,900 sq. n. mi.
Coastline: 835 mi.
Land: 25,300 sq. mi.
Population: 13,357,000



INDUSTRY AND TRADE:

GNP: \$2.03 billion (1972 current prices), \$170 per capita
Major industries: processing of rubber, tea, and other
agricultural commodities; consumer goods manufacture
Exports: \$310.7 million (f.o.b., 1972); tea, rubber, coconut
products
Imports: \$327.2 million (c.i.f., 1972); machinery and equipment;
sugar, flour, rice; textiles and clothing
Major trade partners: exports -- U.K. 14.1%, China 8.2%,
Pakistan 8.0%, U.S. 7.2%, U.S.S.R. 1.8%; imports -- U.K. 10.4%,
U.S. 7.6%, India 7.0%, China 4.9%, Pakistan 4.1%, U.S.S.R. 1.0%
Merchant marine: 6 cargo ships (1,000 GRT or over) totaling
42,500 GRT

MARINE FISHERIES:

Catch: 190,000 metric tons valued at \$64 million (1970)
Economic importance: significant national, major local
Ranking: 38 worldwide, 2 regional
Nature: primarily coastal; limited distant-water fishing off
the coast of India
Species: herring-like fish, tuna, redfish, sea bass, and sharks
Marine fisheries techniques: predominantly unmechanized, limited
modern
Other countries fishing off coast: India, Japan, Korea

PETROLEUM RESOURCES:

No known petroleum or natural gas reserves or production

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NAVY:

Ships: no principal combatants; 31 coastal patrol, 1 river/roadstead patrol craft, 2 auxiliary and 1 service craft

GOVERNMENT LEADERS:

Sirimavo Bandaranaike (Mrs.), Prime Minister and Foreign Minister

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PRESENT OCEAN CLAIMS:

TYPE	DATE	TERMS	SOURCE, NOTES
TERRITORIAL SEA	1957	6 n. mi.	<i>Proclamation of Governor-General, Dec. 20, 1957</i> L.D.-B 13/57 GGO No. W. 57/57 Ceylon Gazette Extraordinary No. 11,222 Dec. 20, 1957
	1971	12 n. mi.	<i>L.D.B. 13/57, G.G-O No. 57/70</i> <i>No. 14,939 of Jan. 7, 1971</i>
CONTINENTAL SHELF	1957	No specified depth or distance	<i>Proclamation of Governor-General, Dec. 20, 1957</i> Sovereign rights over continental shelf and subsoil adjoining territory and territorial waters
EXCLUSIVE FISHING	1956	Extension to cover pearl- ing in the Gulf of Mannar	<i>Pearl Fisheries Ord., Chap. 214,</i> <i>Legal Enactments of Ceylon</i> <i>(1956 Rev.)</i>
	1973	12 n. mi.	
FISHERIES CONSERVATION	1957	100 miles beyond territorial	<i>Proclamation of Governor-General, Dec. 20, 1957</i> Revised Legal Enactments of Ceylon, Chap. 168
CUSTOMS	1956	2 marine leagues	<i>Ordinance</i> Sec. 64 of Customs Ordinance, Chap. 235, Vol. 8, Legal Enactments of Ceylon (1956 Rev.). See Territorial Sea Law 1971.
CRIMINAL JURISDICTION			Customary international law

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PRESENT OCEAN CLAIMS (cont'd):

TYPE	DATE	TERMS	SOURCE, NOTES
SANITARY	1971	12 n. mi.	<i>L.D.B. 13/57 GG-O No. W. 57/70, No. 14,939</i> Governed by territorial waters
STRAIGHT BASELINES	1957		<i>Proclamation of Governor-General of Dec. 20, 1957</i> No specific definition given of "...measured from appropriate baselines..."

MULTILATERAL CONVENTIONS:

Nuclear Test Ban Treaty, 1964
Agreement for Establishment of the Indo-Pacific Fisheries Council, 1949

MULTILATERAL DECLARATIONS:

Lusaka (non-aligned) Declaration, 1970

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ACTION ON SIGNIFICANT UN RESOLUTIONS:

Moratorium Resolution
(A/RES/2574 D, XXIV, 12/15/69)
Pending establishment of international regime, States and persons are bound to refrain from exploiting resources of or laying claim to any part of the seabed and ocean floor beyond the limits of national jurisdiction.

- In favor

LOS Conference
(A/RES/2750 C, XXV, 12/17/70)
Convene in 1973 a Conference on Law of the Sea to deal with establishment of international regime for the seabed and ocean floor, and enlarge Seabed Committee by 44 members and instruct it to prepare for the conference draft treaty articles embodying international regime.

- In favor

LOS Conference, Timing and Site
(A/RES/3029 A, XXVII, 12/18/72)

- Adopted w/o vote

Indian Ocean as a Zone of Peace
(A/RES/2992, XXVII, 12/15/72)
Called upon littoral and hinterland States of Indian Ocean area, permanent members of the Security Council and other major maritime users of Indian Ocean to support concept that Indian Ocean should be zone of peace.

- In favor

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ACTION ON SIGNIFICANT UN RESOLUTIONS (cont'd):

Landlocked/Shelf-Locked Study
Resolution
(A/RES/3029 B, XXVII, 12/18/72)
Called for study of extent and economic significance, in terms of resources, of international area resulting from each proposal of limits of national jurisdiction presented to Committee on Peaceful Uses of the Seabed.

- Abstain

Peruvian Coastal State Study
Resolution
(A/RES/3029 C, XXVII, 12/18/72)
Called for study of potential economic significance for riparian States, in terms of resources, of each of the proposals on limits of national jurisdiction presented to Seabed Committee.

- In favor

Permanent Sovereignty over
Natural Resources
(A/RES/3016 XXVII, 12/18/72)
Reaffirmed right of States to permanent sovereignty over all their natural resources, including those found in the seabed and the subsoil thereof within their national jurisdiction and in the superjacent waters.

- In favor

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MEMBERSHIP IN ORGANIZATIONS RELATED TO LOS INTERESTS

ADB	- Asian Development Bank
Colombo Plan	
Commonwealth	
FAO	- Food and Agriculture Organization
IAEA	- International Atomic Energy Agency
IBRD	- International Bank for Reconstruction and Development (World Bank)
ICAO	- International Civil Aviation Organization
IDA	- International Development Association (IBRD Affiliate)
IFC	- International Finance Corporation (IBRD Affiliate)
ILO	- International Labor Organization
IMCO	- Inter-Governmental Maritime Consultative Organization
IMF	- International Monetary Fund (FUND)
ITU	- International Telecommunication Union
Seabeds Committee	- United Nations Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction
UN	- United Nations
UNESCO	- United Nations Educational, Scientific, and Cultural Organization
WHO	- World Health Organization
WMO	- World Meteorological Organization

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Attachment A



UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.II/L.38
16 July 1973

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF THE
SEA-BED AND THE OCEAN FLOOR BEYOND
THE LIMITS OF NATIONAL JURISDICTION
SUB-COMMITTEE II

DRAFT ARTICLES ON FISHERIES

(by Canada, India, Kenya and Sri Lanka)

- Note: 1. The substance of this proposal is complementary to the concept of the exclusive economic zone and should be considered as a part thereof.
2. The proposal is presented to promote discussion on the subject around a concrete text and does not necessarily reflect the final views of the sponsoring delegations.

ARTICLE 1

A coastal State has a right to establish an exclusive fishery zone beyond its territorial sea. In this zone the coastal State shall exercise sovereign rights for the purpose of exploration, exploitation, conservation and management, over the living resources, including fisheries, and shall adopt from time to time such measures as it may deem necessary and appropriate. The living resources may be plant or animal, and may be located on the water surface, within the water column, on the sea bed or in the subsoil thereof.

ARTICLE 2

The exclusive fishery zone may not extend beyond nautical miles*/ from the baseline from which the breadth of the territorial sea is measured.

ARTICLE 3

Each coastal State shall notify to the Authority designated for the purpose by the Conference on the Law of the Sea the limits of the exclusive fishery zone defined by co-ordinates of latitude and longitude or by any other internationally recognised method and marked on large scale charts officially recognised by that State.

*/The figure for the nautical miles in this Article will correspond to the figure mentioned for the concept of the exclusive economic zone.

A/AC.138/SC.II/L.38
page 2

ARTICLE 4

The coastal State may allow nationals of other States to fish in its exclusive fishery zone, subject to such terms, conditions and regulations as it may from time to time prescribe. These may, inter alia, relate to the following:

- (a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
- (b) Limiting the number of vessels and the number of gear that may be used;
- (c) Specifying the gear permitted to be used;
- (d) Fixing the periods during which the prescribed species may be caught;
- (e) Fixing the age and size of fish that may be caught;
- (f) Fixing the quota of catch, whether in relation to particular species of fish or to catch per vessel over a period of time or to the total catch of nationals of one State during a prescribed period.

ARTICLE 5

Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognised usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

ARTICLE 6

Nationals of a developing landlocked State shall enjoy the privilege to fish in the neighbouring area of the exclusive fishery zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the landlocked State concerned. This privilege will be available to the nationals of the landlocked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

ARTICLE 7

No State exercising foreign domination or control over a territory shall be entitled to establish an exclusive fishery zone or to enjoy any other right or privilege referred to in these Articles with respect to such territory.

ARTICLE 8

A coastal State has a special interest in the maintenance of the productivity of the living resources of the area of the sea adjacent to the exclusive fishery zone, and may take appropriate measures to protect this interest. A coastal State shall enjoy preferential rights to the resources of this area and may reserve for its nationals a portion of the allowable catch of these resources corresponding to its harvesting capacity.

ARTICLE 9

Regulations may be made on a regional basis for the exploration, exploitation, conservation and development of the living resources of the area of the sea outside the limits of the exclusive fishery zone, where these resources are of limited migratory habits and breed, feed and survive on the resources of the region. The States of the region may establish these regulations by entering into an agreement or convention between themselves, or request the Authority, designated for the purpose by the Conference on the Law of the Sea, to formulate these regulations for the region subject to ratification by them.

ARTICLE 10

In respect of fisheries of highly migratory habits outside the limits of the exclusive fishery zone, regulations for their exploration, exploitation, conservation and development shall be made by the Authority designated for the purpose by the Conference on the Law of the Sea.

ARTICLE 11

(On Anadromous Species)

ARTICLE 12

All fishing activities in the exclusive fishery zone and the rest of the sea shall be conducted with due regard to the interests of the other States in the legitimate uses of the sea. In the exercise of their rights, the other States shall not interfere with fishing activities in the exclusive fishery zone.

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ARTICLE 13

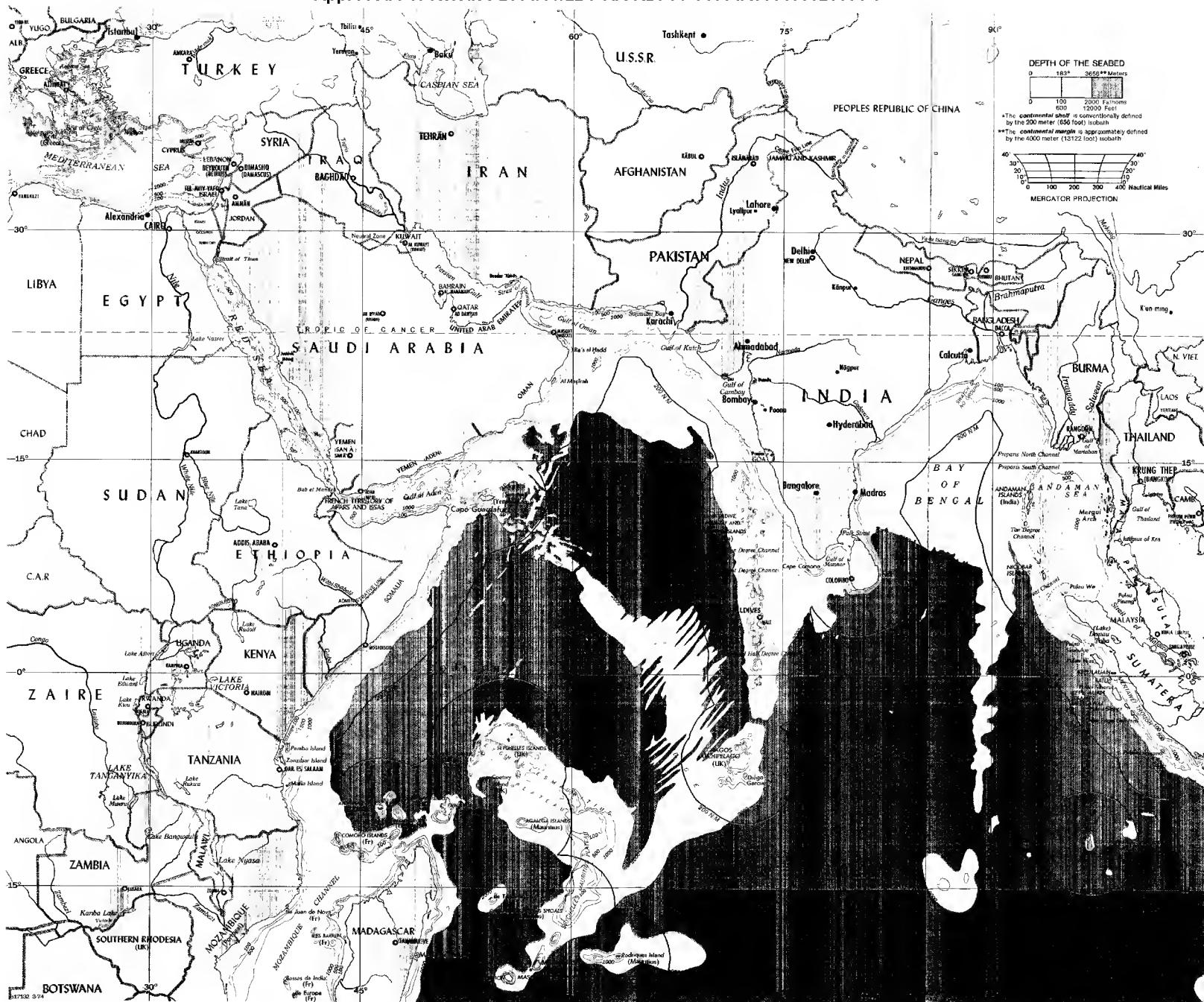
The jurisdiction and control over all fishing activities within the exclusive fishery zone shall lie with the coastal State concerned. Any difference or dispute concerning the limits of the zone or the interpretation or validity of the terms, conditions or regulations referred to in Article 5, or the interpretation and application of these Articles shall be settled by the competent institutions of the coastal State concerned.

Any difference or dispute concerning fishing activities outside the exclusive fishery zone shall be referred to the Authority designated for the purpose by the Conference on the Law of the Sea.

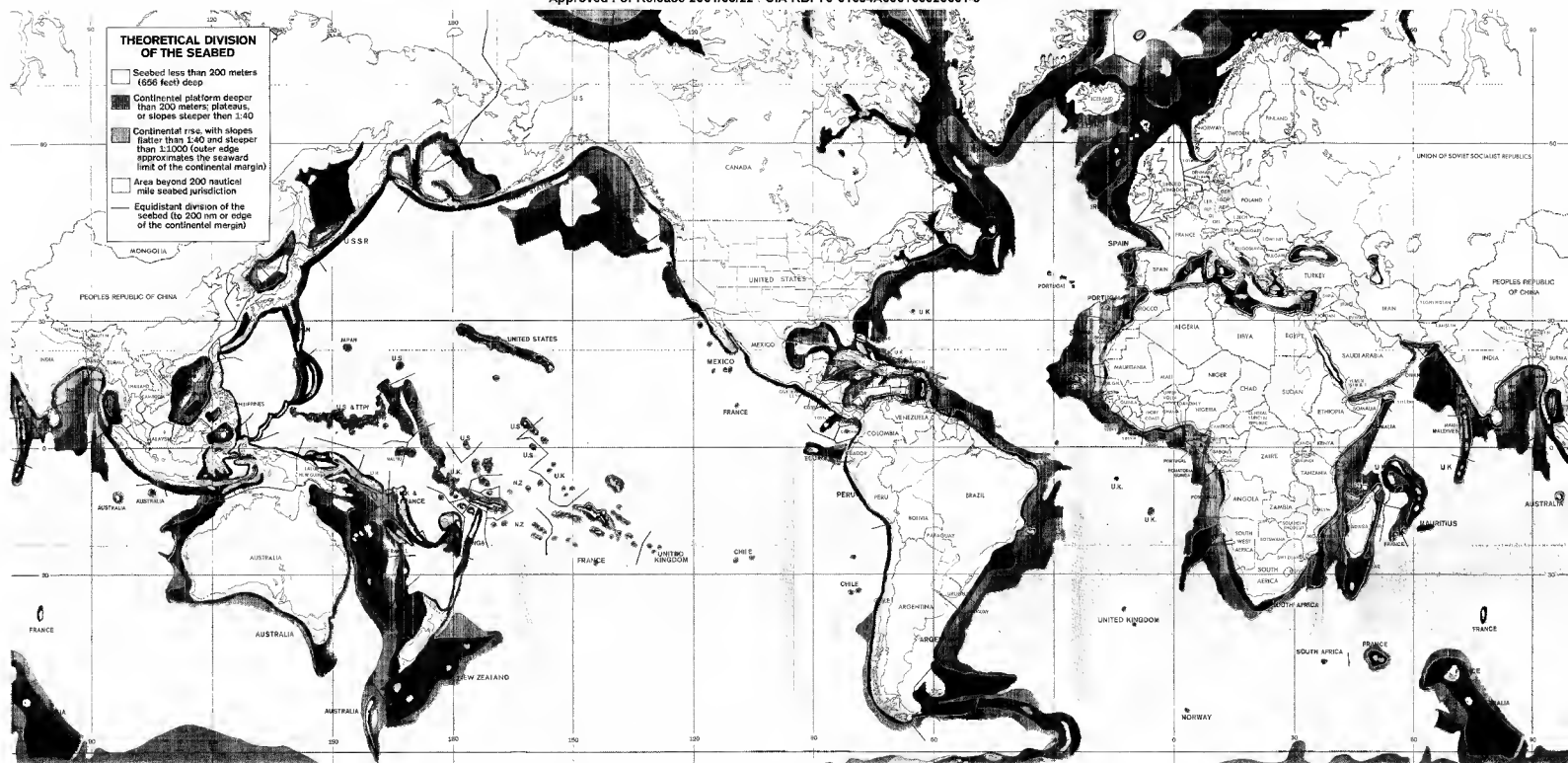
ARTICLE 14

(Final clauses, etc.)

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